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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,207	04/21/2004	Horace Tjakra	45499-00005	9031

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EXAMINER

FONSECA, JESSIE T

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/830,207

Applicant(s)

TJAKRA, HORACE

Examiner

Jessie Fonseca

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

Claims 1-9 have been examined.

### ***Specification***

The abstract of the disclosure is objected to because the abstract in entirety does not fall within the required range of 50 to 150 words. In addition, it appears that the "ridges" extending toward the glass block was incorrectly spelled as "rigids." Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

Claim 1 is objected to because of the following informalities: It appears that "having" was incorrectly spelled as "heaving." Appropriate correction is required.

Claims 5 and 7 are objected to because of the following informalities: It appears that the "ridges" in relation to the plurality of projections was incorrectly spelled as "rigids." Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5, 6, 7, and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The applicant refers to element 20 in the specification as steps or ridges, but subsequently claims the ridges and steps as two different elements. It's unclear if the steps and ridges refer to the same element in the invention or if they refer to two different distinguishable elements.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, it is improper to recite the structure of the spacer in terms of the glass or translucent block when the glass/translucent block is not part of the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, 7, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wirkus et al. (US 5,845,443) in view of Alcazar (US Des. 323, 896).

Wirkus discloses a spacer comprising:

- An elongated spacer having a profile that can possibly correspond to the channels of the glass block (figures 8-9 and column 3, lines 27-30);
- A plurality of projections (items a and b) that extend outward from the profile of the spacer (annotated figure 8 and column 3, lines 31-34);

Wirkus does not explicitly disclose a spacer that is rigid. However, Alcazar discloses a rigid spacer for use in walls. It would have been obvious to one of ordinary skill in the art at time of invention to make Wirkus' spacer rigid as taught by Alcazar in order to have a structure that can maintain its form under load.

Regarding claim 2: Wirkus does not show the spacer having a teardrop shaped in cross section. However, Alcazar shows an elongated spacer having a cross-section profile in the shape of opposing teardrop sections (figure 1). The teardrop section consists of one end having a bulbous shape and tapering to a point on the other end. It would have been obvious to one of ordinary skill in the art at the time of the invention to make Wirkus' spacer have a teardrop shaped cross section as taught by Alcazar in order to have a shape that corresponds with edges of a glass block.

Regarding claims 5 and 6: Wirkus further discloses a plurality of projections that are ridges (item b) or steps (annotated figure 8). Since it's unclear what the difference between a step and ridge is, it's the examiner's stance that the ridge and step are one in the same.

Regarding claim 7: Wirkus further discloses a plurality of projections that are ridges (item b) and pointed projections (item a, annotated figure 8).

Regarding claim 8: A plurality of projections found on the Wikus et al. spacer would obviously result in an increase in the surface area of the spacer, which is capable of being exposed to an adhesive.

Regarding claim 9: Wirkus discloses an elongated spacer comprising a plurality of projections (items a and b) shaped as steps, ridges (items b) or pointed (item a) projections that extend outward from the profile of the spacer (annotated figure 8 and column 3, lines 31-34).

Wirkus does not show the elongated spacer having a teardrop shaped in cross section. However, Alcazar shows an elongated spacer having a cross-section profile in the shape of opposing teardrop sections (figure 1). The teardrop section consists of one end having a bulbous shape and tapering to a point on the other end. It would have been obvious to one of ordinary skill in the art at the time of the invention to make Wirkus' spacer have a teardrop shaped cross section as taught by Alcazar in order to have a shape that corresponds with edges of a glass block.

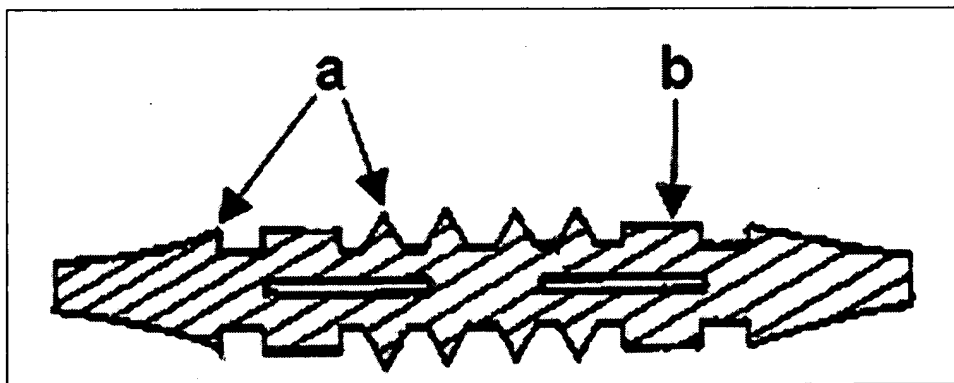


Figure 8: Wirkus et al. (US 5,845,443)

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirkus et al. (5,845,443) in view of Alcazar (US Des. 323, 896), and in further view of Sholton (US 5,485,702).

Wirkus et al., modified by Alcazar, does not explicitly disclose a rigid spacer formed by extruding polyvinyl chloride (PVC). However, Sholton discloses a spacer made of rigid PVC by an extrusion process (column 5, lines 37-38). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the spacer of Wirkus, previously modified by Alcazar, to form a spacer made out of PVC in order to provide a structure that is rigid and lightweight as taught by Sholton.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wirkus et al. (US 5,845,443) in view of Alcazar (US Des. 323, 896), and in further view of Waterhouse (US 5,992,111).

Wirkus et al., modified by Alcazar, does not explicitly disclose a rigid spacer formed from aluminum. However, Waterhouse discloses a rigid spacer made of aluminum (column 1, lines 17-20 and column 3, lines 16-20). It would have been obvious to one of ordinary skill in the art at the time of invention to modify the spacer of Wirkus, previously modified by Alcazar, to form a spacer made out of aluminum in order to provide a structure that is strong and lightweight as taught by Waterhouse.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Ballstadt disclose an extruded framing channel for a glass block (US Des. 325,640).

Ballstadt discloses a channel cap extrusion for a glass block (US Des. 326,329).

Colson discloses a pleat shaped vertical support (US Des. 346,032).

Wight discloses a horizontal spacer for forming angled glass block walls (US 2004/0088935 A1).

Wight discloses a spacer system for glass block walls (US 2004/0088936 A1).

Voegelé, JR. et al. discloses a glass block assembly held in a structural frame (US 2004/0177577 A1).

Unverferth discloses a spacer and seal for building construction using building blocks (US 2,413,268).

McMarlin disclose a method and apparatus for constructing a block wall (US 4,986,048).

Thompson discloses a glass block construction assembly (US 5,010,704).

Thompson discloses an assembly for a curved glass block wall assembly (US 5,655,345).

Wirkus et al. discloses a glass block wall having an extruded separation strip (US 5,740,646).

Coleman discloses a glass block connector strip for building a wall involving cement as an adhesive (US 5,806,263).

Loftus et al. discloses a block wall construction system having a profile in the shape of opposing elongated teardrop shaped sections (US 5,907,937).



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessie Fonseca whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JF JF  
10/31/06

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